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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/629,649	08/01/2000	J. Scott Carr	60256	7630

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DIGIMARC CORPORATION  
9405 SW GEMINI DRIVE  
BEAVERTON, OR 97008

EXAMINER

COUSO, YON JUNG

ART UNIT

PAPER NUMBER

2625

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/629,649	Applicant(s) CARR ET AL.	
	Examiner Yon Couso	Art Unit 2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.  
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 6 and 20-51 is/are pending in the application.  
 4a) Of the above claim(s) 34,36-45 and 47-51 is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 6,20-33,35 and 46 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/28/05</u> . | 6) <input type="checkbox"/> Other: _____  |

1. Applicant's arguments filed October 28, 2005 have been fully considered but they are not persuasive.

a. The applicant has asserted that the claims 34-51 are copied from the parent application 09/629,649. The examiner believes that the correct application is 09/567,405.

b. The both statutory and non-statutory double patenting rejections are still applicable over claims 6-11 and 19 in the application 09/567,405.

c. The claims 34-51 which were imported from the application 09/567,405. Claims 34, 36-45, and 47-51 are now under restriction.

d. With regard to 35 USC 112, first paragraph rejection, the following arguments apply:

Claims 20-22 and 28, the section provided by the applicant reads *"as described above, the embedder typically operates on a digital image in a particular color space and at desired resolution. The watermark embedders normally operate on digital images represented in an RGB or CMYK color space at a desired resolution (e.g. 100 dpi or 300 dpi, the resolution at which the image is printed)."*

This section does not show support for the envelope also includes a franking mark, and wherein the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 1200dots per inch, or less; or the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 600 dots per inch, or less; or the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 300 dots per inch, or less. Only reference made in the patent is 100 dpi or 300 dpi.

With regard to claims 25 and 31, there is no support provided for *"the plural bits of digital data represented by the watermark cannot be discerned by human inspection, even with magnification"*.

With regard to claims 26 and 32, section provided, discloses a process of embedding a digital watermark. However, it failed to specifically show where the support for *"the plural bits of digital data is randomized into a pattern, the pattern comprising the fragile digital watermark"* is.

e. The applicant argues that Leon is not directed to protecting the security of digital representations using watermark technology. The examiner disagrees. The security of digital data is shown at least at column 11, line 63-column 12, line 28:

One or more fields in the indicium can be encoded with a particular encryption algorithm (e.g., DES, RSA, or a comparable algorithm) or signed using a particular cryptographic or digital signature algorithm (e.g., DSA, RSA, or a comparable algorithm), or both. The encoded or signed information can be converted into a printable binary code of some sort. Examples of printable binary codes include bar codes, data matrix, FIM, PDF-417, or others. Data matrix is efficient because it allows for printing of a relatively large amount of data in a small space. Since the indicium is typically restrained to a particular size, efficient use of the available printing area is advantageous.

Data encoding and digital signature can be performed using the SMD's private key. Subsequent data decoding and/or signature authentication can be performed with the SMD's public key, which may be transmitted with the indicium itself. The use of data encoding and digital signature is further described in detail in the aforementioned U.S. patent application Ser. No. 09/250,990.

The data can also be encoded using other schemes. For example, the data can be printed in a graphical format that is arranged in a unique order, such as a data matrix format. This format has the additional advantage of using a small print area to convey information. This graphical encoding scheme can be

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combined with cryptographic encoding/digital signature to provide two levels of security. First, decoding the graphical data typically requires a special data detection mechanism, or at least an understanding of the encoding techniques used. Second, even if the printed data is captured and decoded, the underlying data encryption can be used to prevent viewing of any or all data contents. Thus, this authentication system meets the requirement for a secure and accurate means of authenticating postage indicia.

Moreover, Leon discloses use of watermark technology at least at column 2, lines 21-46:

The invention provides techniques for producing postage labels that include enhanced security features. The postage labels embody generated indicia and can be designed to include various features and to exhibit various characteristics. The indicia can, for example, be printed on preprinted labels or directly onto mail pieces, be formatted using a modular design, include various data fields, be printed with different types of ink that may include taggants, be encoded or signed using encryption keys, and include micro printing and identifiers. The contents of the indicia can include human-readable and machine-readable data elements. Human-readable information includes texts and graphics (e.g., date, address, postage amount, and so on) that can be interpreted by an operator without the use of special translation equipment. Machine-readable information includes graphical representations and encoded texts (e.g., bar codes, FIM marks, data matrix, encoded texts, specially formatted texts, unintelligible texts, and others) that are not readily interpreted by the operator. The postage labels can also include identifier information that exhibits special characteristics and that can be used for authenticating the indicia. The identifiers include, for example, fluorescent strips, marks such as watermarks, micro printing, imprints using special ink and/or taggants, and other features, as described below. The identifier information assists in the prevention and detection of fraud, again as described below.

f. The applicant argues that the Adler's fragile watermark is in the digital realm.

Thus, employed in Leon's application, would not convey plural bits of digital data, they

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would be lost by the very act of printing the original. The examiner disagrees. Adler teaches an image having encoded thereon a fragile digital watermark representing plural bits of digital, the watermark being designated to evidence reproduction by scanning and printing (column 1, lines 23-26; reproduction is considered altering). Even though Adler does not teach details on the image being on an envelope, Leon discloses an envelope having encoded thereon a fragile digital watermark representing plural bits of digital data (column 2, lines 21-46 and column 7, line 66-column 8, line 22), the watermark being designated to evidence reproduction by scanning and printing (column 10, lines 31-32). Adler and Leon are combinable because they are both directed to techniques for protecting the security of digital representations using watermark technology (see paragraph (e) above) . Leon is clear in its disclosure that the one of many well-known identifiers at the time can be used in the system disclosed in the Leon to assist in the prevention and detection of fraud (column 2, lines 25-46 and column 8, lines 11-23). At the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate fragile watermark onto the envelope taught in Leon's because Leon already teaches using watermark as one of the identifiers used in the envelope. It would have been obvious to one of ordinary skill in the art to combine Adler's fragile watermark onto the Leon's envelope.

g. The applicant argues that the claim 36-38 represents canceled claims 8-11. The examiner disagrees. Claim 36-38 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

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2. Newly submitted claims 34, 36-45, and 47-51 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

The newly added claims are directed to an envelope having steganographically encoded thereon an indicia discernable in visible light, mail processing method, and an envelope having encoded thereon a first digital watermark representing plural bits of digital data, wherein the first watermark having a characteristic that degrades in a generally foreseeable manner when a copying process is applied thereto, which are classified in 705/410, 348/91, and 283/113 respectively.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 34, 36-45, and 47-51 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. Claims 28-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 28 through 33 depends from a canceled claim 7. Their scope cannot be determined without the proper dependency of the claims.

4. Claims 20-22, 25, 26, 28, 31, and 32 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to

reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The following limitations in the claims do not have proper antecedent basis in the originally filed specification:

Claim 20, the envelope also includes a franking mark, and wherein the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 1200 dots per inch, or less.

Claim 21, the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 600 dots per inch, or less.

Claim 22, the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 300 dots per inch, or less.

Claim 25, the plural bits of digital data represented by the watermark cannot be discerned by human inspection, even with magnification.

Claim 26, the plural bits of digital data is randomized into a pattern, the pattern comprising the fragile digital watermark.

Claim 28, the envelope also includes a franking mark, and wherein the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 1200dots per inch, or less.

Claim 31, the plural bits of digital data represented by the watermark cannot be discerned by human inspection, even with magnification.

Claim 32, the plural bits of digital data is randomized into a pattern, the pattern comprising the fragile digital watermark.



Please provide the support from the originally filed specification or cancel the newly added or amended portions.

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 6 and 35 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6 and 7 of copending Application No. 09/567405 (herein called '405). Although the conflicting claims are not identical, they are not patentably distinct from each other because

'405 teaches an envelope having encoded thereon a fragile digital watermark representing bits of data, the watermark being designed to evidence reproduction by scanning and printing (claim 6). Even though '405 does not details on the watermark comprising a machine-readable pattern, it would have been obvious to one of ordinary skill in the art that the digital watermark taught in '405 would be machine readable. A fragile digital watermark by definition is one designed to evidence the scanning/printing operations associated with reproduction, such as photocopying or PC based scanning

and printing. In order to carry out the function described above, the watermark has to be machine-readable.

'405 teaches an envelope having encoded thereon a machine-readable indicia that indicates, to suitably equipped device, that image data corresponding to the envelope should not be reproduced (claim 7). '405 additionally includes "the envelope having a structure adapted to provide an enclosure for mail" which is nothing more than a definition for envelope. It would have been obvious to any one of ordinary skill in the art that the envelope is having a structure adapted to provide an enclosure for mail, with and without the detailed description of what physical envelope is.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

Claim 46 is provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claim 19 of copending Application No. 09/567405 ('405). This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 6 and 20-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adler et al (US Patent No. 6,275,599) in view of Leon.

The arguments advanced in paragraph 1 above as to the applicability of the references are incorporated herein.

As for claim 6, Adler teaches an image having encoded thereon a fragile digital watermark representing plural bits of digital, the watermark being designated to evidence reproduction by scanning and printing (column 1, lines 23-26; reproduction is considered altering). Even though Adler does not teach details on the image being on an envelope, Leon discloses an envelope having encoded thereon a fragile digital watermark representing plural bits of digital data (column 2, lines 21-46 and column 7,

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line 66-column 8, line 22), the watermark being designated to evidence reproduction by scanning and printing (column 10, lines 31-32). Adler and Leon are combinable because they are both directed to techniques for protecting the security of digital representations using watermark technology. At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine Adler with Leon to obtain the invention as specified in the claims.

As to claim 20, Leon teaches the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 1200dots per inch, or less (column 6, lines 27-47 and column 10, lines 34-42).

As to claim 21, Leon teaches the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 600 dots per inch, or less (column 6, lines 27-47 and column 10, lines 34-42).

As per claim 22, Leon teaches the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 300 dots per inch, or less (column 6, lines 27-47 and column 10, lines 34-42).

As per claim 23, Leon teaches the watermark comprising features of another indicia on the envelope, which indicia features are subtly changed to alter the local luminance or color thereof (column 9, lines 14-40).

As per claim 24, Leon teaches the watermark comprises a texture pattern on the envelope formed by a substrate material (column 9, lines 41-52).

As per claim 25, Leon teaches the plural bits of digital data represented by the watermark cannot be discerned by human inspection, even with magnification (column 10, lines 60-64).

As per claim 26, Adler teaches the plural bits of digital data are randomized into a pattern, the pattern comprising the fragile digital watermark (column 3, lines 60-67).

8. Claims 6 and 20-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coppersmith et al (US Patent No. 6,256,736) in view of Leon (US Patent No. 6,701,304).

The arguments advanced in paragraph 1 above as to the applicability of the references are incorporated herein.

As for claim 6, Coppersmith teaches an image having encoded thereon a fragile digital watermark representing plural bits of digital data, the watermark being designated to evidence reproduction by scanning and printing (column 1, lines 24-30; reproduction is considered modification). Even though Coppersmith does not teach details on the image being on an envelope, Leon discloses an envelope having encoded thereon a fragile digital watermark representing plural bits of digital data (column 2, lines 21-46 and column 7, line 66-column 8, line 22), the watermark being designated to evidence reproduction by scanning and printing (column 10, lines 31-32). Coppersmith and Leon are combinable because they are both directed to techniques for protecting the security of digital representations using watermark technology. At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine Coppersmith with Leon to obtain the invention as specified in the claims.

As to claim 20, Leon teaches the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 1200dots per inch, or less (column 6, lines 27-47 and column 10, lines 34-42).

As to claim 21, Leon teaches the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 600 dots per inch, or less (column 6, lines 27-47 and column 10, lines 34-42).

As per claim 22, Leon teaches the fragile digital watermark and the franking mark are printed by the same printer, having a print resolution of 300 dots per inch, or less (column 6, lines 27-47 and column 10, lines 34-42).

As per claim 23, Leon teaches the watermark comprising features of another indicia on the envelope, which indicia features are subtly changed to alter the local luminance or color thereof (column 9, lines 14-40).

As per claim 24, Leon teaches the watermark comprises a texture pattern on the envelope formed by a substrate material (column 9, lines 41-52).

As per claim 25, Leon teaches the plural bits of digital data represented by the watermark cannot be discerned by human inspection, even with magnification (column 10, lines 60-64).

9. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zhao (US Patent No. 6,754,822) in view of Leon (US Patent No. 6,701,304).

The arguments advanced in paragraph 1 above as to the applicability of the references are incorporated herein.

Zhao teaches a document having encoded thereon machine-readable indicia that indicates, to suitably equipped devices, that image data corresponding to the document should not be reproduced (column 19, lines 48-57).

Even though Zhao does not specify an envelope as one of the document being processed in the system, it is clear to the one of ordinary skill in the art that the document taught in Zhao can be of any document, including envelope. Leon discloses an envelope having encoded thereon a fragile digital watermark representing plural bits of digital data (column 2, lines 21-46 and column 7, line 66-column 8, line 22), the watermark being designated to evidence reproduction by scanning and printing (column 10, lines 31-32). Zhao and Leon are combinable because they are both directed to techniques for protecting the security of digital representations using watermark technology. At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine Zhao with Leon to obtain the invention as specified in the claims.

10. Claim 6 is rejected under 35 U.S.C. 103 as being obvious over Turho (5,635,694) in view of Tonges et al (4,175,774).

In regard to claim 6, Tuhro ('694) discloses envelope 1 with multi-bit digital data encoded in a pixel by pixel basis in cancellation mark 7 so as to prevent fraudulent copying of the mark, note fig. 4 which clearly shows that the encoded information is contained within a larger printed structure. As a skilled artisan would recognize, such an encoding of data, in a image is a fragile digital watermark, which would not be reproducible by the scanning and copying elements most photocopiers, (as evidence of

this statement see the teachings of Tonges et al (4, 175,774) in the environment of preventing copying of printed security markings that teach in 1979, it was known to use dots of two different sizes when printing valuable documents where one size can be detected and copied by a photocopier and the second size is too small to be detected and copied by a photocopier.

11. Claim 35 is rejected under 35 U.S.C. 103 as being obvious over Gasper et al (5,919,730) in view of Leon (US Patent No. 6,701,304).

The arguments advanced in paragraph 1 above as to the applicability of the references are incorporated herein.

In regard to claim 35, Gasper et al ('730) in the environment of preventing the unauthorized copying of printed documents teaches that it was known by others at the time of the invention to use dots of two different sizes when printing copy restrictive documents where if a dot of one size, i.e. microdot, is detected then a suitably equipped device/copier would recognize that the document should not be copied. Leon teaches Even though Gasper does not teach details on an envelope having encoded thereon a machine readable indicia, Leon teaches an envelope having encoded thereon a machine readable indicia (figure 4, column 2, lines 21-46, column 7, line 66-column 8, line 22, and column 8, lines 57-65). Given the reference at the time the invention was made, it would have been obvious to one of ordinary skills in the art to incorporate machine-readable indicia taught in Gasper into the Leon's envelope, which already includes watermark for preventing the unauthorized copying of printed documents.



12. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Adler in view of Leon as applied to claim 6 and further in view of Haitsma et al (US Patent No. 6,865,589).

Even though Adler in view of Leon does not teach details on the fragile digital watermark comprises a subtle background pattern that forms no part of any other marking on the envelope, Adler clearly teaches the plural bits of digital data are randomized into a pattern (column 3, lines 60-67). Haitsma teaches digital watermark comprises a subtle background pattern that forms no part of any other marking on the document (column 2, lines 40-47). Given the references at the time the invention was made, it would have been obvious to one of ordinary skill in the art to incorporate the fragile digital watermark comprising a subtle background pattern taught in Haitsma into the Adler in view of Leon because embedding the watermark as a background is the most common form of using the watermark technology. Moreover, Adler already teaches spreading plural bits of digital data are randomized into a pattern as a watermark.

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

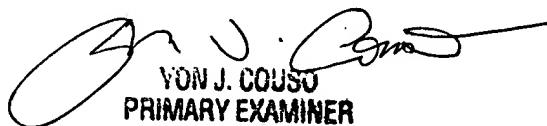
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yon Couso whose telephone number is (571) 272-7448. The examiner can normally be reached on Monday through Friday from 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bhavesh Mehta, can be reached on (571) 272-7453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

YJC



YON J. COUSO  
PRIMARY EXAMINER

January 17, 2006